D.B. CIVIL SPECIAL APPEAL(W)NO.199/2007

Mohan Lal Meghwal
Vs.
Vikas Adhikari, Panchayat Sam.Shivganj & Ors.

Date of Order :: 14-03-2007

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE GOVIND MATHUR

Shri Amra Ram Rajpurohit, for
Shri Mahesh Thanvi, for the appellant.

When the case was taken up, prayer for adjournment was made on behalf of the appellant. We looked into prima facie merit of the case so that adjournment may serve some useful purpose.

The appeal is directed against the order of the learned Single Judge dated 14.12.2006 by which the learned Judge vacated the interim order of stay dated 19.9.2002. By order dated 19.9.2002, the impugned order by which the appellant had been placed under suspension was stayed. The learned Judge found that appellant had been caught red-handed taking bribe which had led to suspension.

The appellant does not deny that he was caught bribe of Rs.10,000/-. He however took the plea that he was acting at the behest of the Sarpanch. It is also the case of the appellant that suspension was revoked on 1.7.2001 but he was again placed under suspension on 9.9.2002. According to him, he cannot be suspended twice over for the same offence.

The writ petition is pending before the Single Bench and therefore we do not wish to record our concluded opinion. We are however satisfied that stay of suspension amounted to virtually allowing the writ petition. The order of stay restored the appellant to the post held by him earlier, which could not be done without adjudication. It is well settled rule that the Court should ordinarily refrain from granting an interim relief which has the effect of granting the main relief. The appellant succeeded in keeping the order of suspension in abeyance for over four years and he should be happy. He cannot expect more. In the facts of the case, we do not feel inclined to interfere with the order.

The appeal is accordingly dismissed.

[GOVIND MATHUR],J. [S.N.JHA],CJ.

Praveen